REMARKS

Claims 111-162 are currently pending in this application. Applicants note that in the Office Action Summary and on page 2 of the Office Action ("the Action), claims 152-154 are indicated as being withdrawn from further consideration as being drawn to a non-elected embodiment. However, in applicants' June 21, 2007 response to the restriction requirement, applicants elected, with traverse, Group I which included claims 111-121, 149-154, and 159-161. Further, as evidenced by the rejections in the Action, *inter alia*, on page 3, 4, and 7-9, claims 152-154 appear to have been considered. Accordingly, applicants submit that claims 152-154 were not withdrawn as being drawn to a non-election embodiment.

Pursuant to a restriction requirement, applicants have canceled claims 122-148, 155-158 and 162 without prejudice or disclaimer in order to pursue the embodiments in a divisional application. In addition, applicants have canceled claims 150, 151, 153, and 154 without prejudice or disclaimer. Claims 111, 112, 149, and 153 are amended herein. Support for amended claims can be found throughout the specification and claims as originally filed. No new matter is presented by the amendments. Accordingly, applicants respectfully request entry of the amendments and reconsideration of pending claims 111-121, 149, 152, and 159-161.

Additionally, upon the allowance of generic claims, applicants respectfully request consideration of additional species as provided by 37 C.F.R. §1.141.

Double Patenting Rejections

On page 3 of the Action, claims 149-150, 153, and 159 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1 and 3 of U.S. Patent No. 5,561,157 ("the '157 patent"). Applicants respectfully traverse this rejection.

The '157 patent claims recite a composition comprising hydroquinone or hydroquinone monoether and lactobionic acid. A composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. The '157 patent does not claim an antioxidant composition comprising the aldobionic acids recited in independent claim

149. The '157 patent claims are not directed to, and cannot render obvious claim 149. Accordingly, applicants respectfully request the Examiner reconsider and withdraw the rejection as applied to claim 149.

Additionally, independent claim 159 recites in part, "A topical composition comprising lactobionic acid or maltobionic acid, ***and N-acetyl-glucosamine***...". (Emphasis added). The '157 patent does not claim a topical composition comprising lactobionic acid or maltobionic acid and N-acetyl-glucosamine. Thus, the '157 patent claims are not directed to, and cannot anticipate or render obvious the claim 159. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claim 159.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

On page 3 of the Action, claims 149-150 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-2, 15, 23, 27-29, and 32-35 of U.S. Patent No. 5,877,212 ("the '212 patent"). Applicants respectfully traverse this rejection.

The '212 patent claims recite a composition comprising lactobionic acid and an organic complexing agent. As discussed previously, a composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. Thus, the '212 patent does not claim an antioxidant composition comprising the aldobionic acids recited in claim 149. The '212 patent claims are not directed to, and cannot render obvious claim 149. Accordingly, applicants respectfully request the Examiner reconsider and withdraw the rejection as applied to claim 149.

Applicants have canceled claim 150, thereby rendering this rejection moot as applied to claim 150. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claim 150.

On page 4 of the Action, claims 149-150 and 152-153 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 8 and 14 of U.S. Patent No. 5,942,250 ("the '250 patent"). Applicants respectfully traverse this rejection.

The '250 patent claims recite a composition comprising a sunscreen agent and lactobionic acid. As discussed previously, a composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. Thus, the '250 patent does not claim an antioxidant composition comprising the aldobionic acids recited in claim 149. The '250 patent claims are not directed to, and cannot render obvious claim 149. For at least these reasons, dependent claim 152 also is not unpatentable. Accordingly, applicants respectfully request the Examiner reconsider and withdraw the rejection as applied to claims 149 and 152.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

On page 4 of the Action, claims 111-121, 149-151, and 159-161 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-7, 20-26, 29-30, 43-49, 52-56 of U.S. Patent No. 6,335,023 ("the '023 patent"). Applicants attach hereto a Terminal Disclaimer obviating this rejection. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

On pages 4-5 of the Action, claims 111-121, 149-151, and 159-161 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-10, 32-34, 36-41, and 46-48 of U.S. Patent No. 6,740,327 ("the '327 patent"). Applicants attach hereto a Terminal Disclaimer obviating this rejection. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

On page 5 of the Action, claims 111-115 and 149-154 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 21-22, 29, and 35-36 of Application No. 10/792,273 ("the '273 application").

This rejection is a provisional double patenting rejection, for which the M.P.E.P. at § 1504.06 provides as follows:

> If a provisional double patenting rejection (of any type) is the only rejection remaining in two conflicting applications, the examiner should withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent. The examiner should maintain the provisional double patenting rejection in the other application which rejection will be converted into a double patenting rejection when the first application issues as a patent. If more than two applications conflict with each other and one is allowed, the remaining applications should be cross rejected against the others as well as the allowed application. For this type of rejection to be appropriate, there must be either at least one inventor in common, or a common assignee. If the claims in copending design applications or a design patent and design applications have a common assignee but different inventive entities, rejections under 35 U.S.C. 102(e), (f) and (g)/103(a) must be considered in addition to the double patenting rejection. See MPEP Section 804, Section 2136, Section 2137 and Section 2138.

Since this is a provisional rejection, and applicants submit claims 111-115, 149, and 152 are in condition for allowance, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 111-115, 149, and 152.

Applicants have canceled claims 150, 151, 153, and 154, thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150, 151, 153, and 154.

On pages 5 and 6 of the Action, claims 111-115 and 149-154 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 21-22, and 29 of Application No. 11/050,434 ("the '434 application"). Application No. 11/050,434 has been abandoned as of October 12, 2007. Thus, this rejection as applied to claims 111-115, 149, and 152 is moot. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 111-115, and 149-154.

On page 6 of the Action, claims 111-112 and 149-154 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 21-22 of Application No. 11/320,530 ("the '530 application"). As discussed above, since this is a provisional rejection, and applicants submit that claims 111-112, 149, and 152 are in

condition for allowance, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 111-112, 149, and 152.

Applicants have canceled claims 150, 151, 153, and 154, thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150, 151, 153, and 154.

On pages 6 and 7 of the Action, claims 111-115 and 149-154 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 22 and 24 of Application No. 11/621,287 ("the '287 application"). As discussed above, since this is a provisional rejection, and applicants submit that claims 111-115, 149, and 152 are in condition for allowance, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Applicants have canceled claims 150, 151, 153, and 154, thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150, 151, 153, and 154.

Rejections Under 35 U.S.C. § 102

On pages 7-8 of the Action, claims 149-150 and 152-153 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,895,716 ("Goldstein"). Applicants respectfully traverse this rejection.

Goldstein discloses formulations comprising IFN-γs, lactobionic acid, and an acetate/glycine buffer. As discussed previously, a composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. Goldstein does not disclose an antioxidant composition comprising the aldobionic acids recited in claim 149. Goldstein therefore fails to disclose every element recited in claim 149, and consequently, Goldstein fails to anticipate claim 149. For at least these reasons, dependent claim 152 also is

not anticipated by Goldstein. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 149 and 152.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to claims 150 and 153. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

On page 8 of the Action, claims 149-150 and 152-153 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,405,641 ("Kurihara"). Applicants respectfully traverse this rejection.

Kurihara discloses a taste-modification composition comprising salt, carbohydrate, and lactobionic acid. A composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. Kurihara does not disclose an antioxidant composition comprising the aldobionic acids recited in claim 149. Kurihara therefore fails to disclose every element recited in claim 149, and consequently, Kurihara fails to anticipate claim 149. For at least these reasons, dependent claim 152 also is not anticipated by Kurihara. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 149 and 152.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to claims 150 and 153. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

On page 9 of the Action, claims 149-150 and 152-153 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the '157 patent. Applicants respectfully traverse this rejection.

As previously discussed, the '157 patent disclose a composition comprising hydroquinone or hydroquinone monoether and lactobionic acid. A composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. In addition, the '157 patent does not disclose an antioxidant composition comprising the aldobionic acids recited in claim 149. The '157 patent therefore fails to disclose every element recited in

claim 149, and consequently, the '157 patent fails to anticipate claim 149. For at least these reasons, dependent claim 152 also is not anticipated by the '157 patent. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 149 and 152.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to claims 150 and 153. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

Also on page 9 of the Action, claims 111-115 and 149-154 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,703,160 ("Dehennau"). Applicants respectfully traverse this rejection.

Dehennau discloses a biodegradable thermoformable containing a starchy compound, a biodegradable polyester, and maltobionic or lactobionic acid. Maltobioinic acid has been deleted from claim 111. Dehennau does not disclose a composition comprising the aldobionic acids now recited in claim 111. Dehennau therefore fails to disclose every element recited in claim 111, and consequently, Dehennau fails to anticipate claim 111. For at least these reasons, dependent claims 112-115 also are not anticipated by Dehennau.

As previously discussed, a composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. Dehennau does not disclose an antioxidant composition comprising the aldobionic acids now recited in claim 149. Dehennau therefore fails to disclose every element recited in claim 149, and consequently, Dehennau fails to anticipate claim 149. For at least these reasons, dependent claim 152 also is not anticipated by Dehennau. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 149 and 152.

Applicants have canceled claims 150, 151, 153, and 154 thereby rendering this rejection moot as applied to those claims. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150, 151, 153, and 154.

On page 9 of the Action, claims 149-150 and 152-153 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 5,977,127 ("Bonnacker"). Applicants respectfully traverse this rejection.

Bonnacker discloses a pharmaceutical preparation containing cilansetron and lactobionic acid. A composition comprising lactobionic acid as the sole aldobionic acid is no longer with the scope of amended claim 149. In addition, Bonnacker does not disclose an antioxidant composition comprising the aldobionic acids now recited in claim 149. Bonnacker therefore fails to disclose every element recited in claim 149, and consequently, Bonnacker fails to anticipate claim 149. For at least these reasons, dependent claim 152 also is not anticipated by Bonnacker. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection as applied to claims 149 and 152.

Applicants have canceled claims 150 and 153, thereby rendering this rejection moot as applied to claims 150 and 153. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the rejection as applied to claims 150 and 153.

On page 10 of the Action, claims 111-112, 116, and 118-119 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication 2003/0010254 ("Mentink"). Applicants respectfully traverse this rejection.

The Action states, "Mentink et al. disclose a composition comprising lactobionic acid or maltobionic acid, and ethanolamine." Claim 111 does not recite maltobionic acid, and Mentink does not disclose the aldobionic acids now recited in claim 111. Mentink therefore fails to disclose every element recited in claim 111, and consequently, Mentink fails to anticipate claim 111. For at least these reasons, dependent claims 112, 116, and 118-119 also are not anticipated by Mentink. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

CONCLUSION

In view of the foregoing, applicant respectfully submits that the present claims are in condition for allowance. An early notice to this effect is earnestly solicited. Should there be any questions concerning the foregoing, or should the Examiner believe that a telephonic interview would serve to further advance prosecution of the claims, the Examiner is courteously invited to contact the undersigned at the telephone number listed below.

No additional fee is believed to be required for entry and consideration of this response. Nevertheless, in the event that the U.S. Patent and Trademark Office requires any additional fee to enter this response or to maintain the instant application pending, please charge such fee to the undersigned's Deposit Account No. 07-1700.

Respectfully submitted,

Dated: 10/25/07

By: _____

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